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REMARKS:

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APPENDIX C

Table 9-9. -- Adjustments

If adjustment is --	then --
<p>1.a. to a contract with a commercial contractor or Government agency; or</p> <p>b. for increases or decreases resulting from decisions under Public Law 85-804 correcting mistakes or formalizing informal agreement (FAR, SEC 50.302-3); 2 or</p> <p>c. for contingent liabilities existing under indemnification or equitable adjustment clause; 3 or</p> <p>d. for discretionary cost increases in a cost reimbursement contract exceeding contractually stipulated ceilings and not based on an antecedent liability enforceable by the contractor, 4</p>	<p>obligate one of the following as appropriate:</p> <p>(1) unexpired funds for contract changes requiring change-in-scope, additional contractor work, or additional contractor billable costs; or</p> <p>(2) funds cited on the original contract for changes resulting from price inflation, escalation increases, economic price adjustments, incentive fees, award fees, and similar adjustments. 1</p>
<p>2.a. for a contract terminated for the convenience of the Government,</p> <p>b. for a contract terminated for the convenience of the Government in response to a court order or a determination by a Board of Contract Appeals, GAO, OTAG-Contract Law, the OCOE-Chief Counsel or AMC's Command Counsel (for contracts awarded by AMC or its subordinate commands) that the contract was improper -- (CG B-232616, 19 Dec 88),</p>	<p>adjust the recorded obligation to anticipated settlement costs.</p> <p>obligate funds originally cited to fund a replacement contract, provided all the following conditions are met:</p> <p>(1) original contract was made in good faith;</p> <p>(2) a continuing bona fide need still exists for the goods or services ordered;</p> <p>(3) replacement contract is substantially of the same size and scope as the original contract.</p> <p>(4) replacement contract is awarded without undue delay on the same basis as original contract; and</p> <p>(5) replacement contract is awarded to a different contractor.</p>

Table 9-9. -- Adjustments (con't)

If adjustment is --	Then --
9.a. required to make a payment for a recorded unliquidated obligation in a closed account; or	use unexpired funds available for the same general purpose subject to the unexpended and 1 percent limitations.
b. required to make a payment for an unrecorded obligation in a closed account; or	
c. required to obligate for an unrecorded obligation in a closed account when clearing a disbursement properly made before the account closed, 7	

Notes

1. Contract changes citing expired funds require written documentation supporting these charges/adjustments as a legitimate use of expired appropriations. See paragraph 9-5r for documentation requirements.

2. Public Law 85-804 is the statute that authorizes making, amending, and modifying contracts to facilitate the national defense.

3. The allottee is responsible for covering the Government's contingent liability under the contract and for ensuring enough funds are available to cover net increases in obligations if the contingencies become actual liabilities when the formal contract supplement is signed.

4. Discretionary cost increases that exceed contractually stipulated ceilings but do not change the contract scope or do not require additional contractor work or do not require additional contractor billable costs are charged, when the discretionary increases are granted, to funds cited on the original contract if available and then to funds current. Once the election is made to use current year funds, subsequent accounting adjustments to transfer costs to prior years are not authorized.

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5. If a contractor objects to the deduction of liquidated damages, treat the amount as a contingent liability. Reestablish an obligation only when a formal contractor claim is approved.